IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 1808 OF 2006

M/s. Panchasar Leasing & Investment Ltd.
And others .. Petitioners
v/s.
Shree Sidhpur Audichya Brahmin Seva Samaj
and others .. Respondents

Mr. M.J. Jamdar for the petitioners.
Mr. Rajiv Patil with Mr. Yogesh P. Yagnik for the respondent Nos.1 to 12.
Mr. G.W. Mattos, Assistant Government Pleader for the respondent No.14.

CORAM : R.M. LODHA &
SMT.NISHITA MHATRE , JJ.

DATED : 11TH JANUARY, 2007

P.C.

The rival tenderer whose offer to purchase the subject property for Rs.1,01,54,000/- having not been accepted by the Joint Charity Commissioner has invoked the extraordinary jurisdiction of this court.

2. Shri Sudhpur Audichya Brahmin Seva Samaj is a public trust and owns property admeasuring 383.77 sq.mt. at Jagannath Shankar Sheth Road, Mumbai bearing survey No.271, Cadastral Survey No.2083 of Bhuleshwar Division. The trust decided to sell the aforesaid property vide resolution dated 7th March, 2004 on `as is where is basis' and then applied

to the Joint Charity Commissioner, Greater Mumbai Region for permission.

3. In view of the order passed by the Joint Charity Commissioner, notice was issued. Pursuant thereto, the present petitioners submitted their offer in tender form No.2 expressing their readiness to purchase the said property for Rs.1,01,54,000/- on the terms set out in the public notice. However, an additional condition was incorporated by the petitioners viz. “our offer is for purchase of above referred property building with vacant possession of the area in possession of trust and with tenants.”

4. On the other hand, the respondent No.13 had agreed to purchase the said property for a sum of Rs.79,00,000/-.

5. Though the petitioners clarified the additional condition set out by them in their tender form by submitting that their offer of the purchase for the said property was on `as is where is basis' and that the vacant possession is to be given in respect of the portion in possession of the trust and that for the possession from the other occupants, the tenderer would settle. However, on consideration of the entire material, the Joint Charity Commissioner was not satisfied with the bonafides of the petitioners and granted permission for sell of the subject property to respondent No.13 on as is where is basis for consideration of Rs.79,00,000/- on the terms and conditions set out in the order.

6. During the course of motion hearing, we asked the counsel for the petitioners as to whether the petitioners are ready and willing to deposit the entire amount of offer of Rs.1,01,54,000/- within three days. The counsel submitted that the petitioner can only deposit a sum of Rs.10,00,000/- within one week from today and that the remaining consideration can be

deposited within a period of six months. We, thus, find that the offer made by the petitioners was not bonafide and intended to delay and protract the sale of the property by the trust.

7. The consideration of the matter by the Joint Charity Commissioner does not call for any interference in extraordinary jurisdiction.

8. Writ petition is dismissed in limine.

(R.M.LODHA, J.)

(SMT. NISHITA MHATRE, J.)